

**STATE OF CALIFORNIA
DEPARTMENT OF INSURANCE
45 Fremont Street, 24th Floor
San Francisco, California 94105**

**TEXT OF PROPOSED REGULATIONS
(ALL ARTICLES AND SECTIONS ARE ENTIRELY NEW)**

**File Number RH01013336
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California Code of Regulations Title 10 Chapter 5 Subchapter 3

Article 10.2. Notices Regarding Sale or Liquidation of Assets and Standards for Medi-Cal Eligibility

Section 2523.20. Authority and Purpose

The Insurance Commissioner promulgates the regulations in Article 10.2 pursuant to the authority granted by California Insurance Code sections 789.6(h), 12921(a), and 12926. The purpose of these regulations is to implement and make specific the provisions of California Insurance Code section 789.8.

NOTE: Authority cited: Sections 789.6(h), 12921(a), and 12926, Insurance Code.
Reference: Section 789.8, Insurance Code.

Section 2523.21. Definitions

The following definitions apply to the regulations in this Article:

- (a) “Elder” is defined as set forth in Insurance Code section 789.8(a) (“any person residing in this state who is 65 years of age or older”).
- (b) “Elder’s Agent” is a person who is a designated legal representative of the elder or who is otherwise authorized by the elder to act on his or her behalf.
- (c) “Financial Product” is any life insurance, including an annuity product.
- (d) “Notice Regarding the Sale or Liquidation of Assets” is set forth in section 2523.22(c) as Form LIC-47. It is the written advice required by Insurance Code section 789.8(b).

NOTE: Authority cited: Sections 789.6(h), 12921(a), and 12926, Insurance Code.
Reference: Sections 785, 789.8, Insurance Code.

Section 2523.22. Notice Regarding the Sale or Liquidation of Assets

- (a) Every life agent who offers to sell or sells a life insurance or annuity product to an elder shall provide the written notice prescribed in paragraph (c) below to the elder or the elder's agent.
- (b) The notice shall be printed as shown in subsection (c) in at least 12-point type. All portions of the notice shown in upper case letters and/or boldface type in subsection (c) shall be printed in upper case letters and/or boldface type. The notice shall be clearly separate from any other document or writing, and shall be signed and dated by the elder or the elder's agent.
- (c) The Notice Regarding the Sale or Liquidation of Assets is as follows:

NOTICE REGARDING THE SALE OR LIQUIDATION OF ASSETS (Required by California Insurance Code Section 789.8)

If you or your spouse are considering buying a life insurance or annuity product, California law requires your life insurance agent to advise you that:

There may be tax consequences, early withdrawal penalties, or other costs or penalties if you sell or liquidate any stock, bond, IRA, certificate of deposit, mutual fund, annuity, or other asset to fund the purchase of a life insurance or annuity product.

California law also requires your life insurance agent to advise you that:

You or your spouse may wish to consult with an independent legal or financial advisor before selling or liquidating any assets and before buying a life insurance or annuity product.

I have read the Notice set forth above and I have received a copy of it.

Date: _____ Time: _____ Signature: _____

Form LIC-47

NOTE: Authority cited: Section 789.6(h), 12921(a), and 12926, Insurance Code.
Reference: Section 789.8, Insurance Code.

Section 2523.23. Notice Regarding Standards for Medi-Cal Eligibility

- (a) A life agent must provide a "Notice Regarding Standards for Medi-Cal Eligibility," as prescribed in Insurance Code section 789.8(d) and as currently published by the State Department of Health Services pursuant to Insurance Code section 789.8(e), when the sale or offer to sell any financial product is made on the basis of the product's treatment under the Medi-Cal program.

- (b) A financial product shall be deemed to have been sold or offered for sale on the basis of the product's treatment under the Medi-Cal program if the life agent provides any information in any manner in connection with the sale of the financial product to the elder or elder's agent regarding the Medi-Cal program.

NOTE: Authority cited: Sections 789.6(h), 12921(a), and 12926, Insurance Code. Reference: Section 789.8, Insurance Code.

Section 2523.24. Notice and Record-Keeping Requirements

- (a) The original and copies of the Notice Regarding the Sale or Liquidation of Assets (set forth in section 2523.22(c), above) and the Notice Regarding Standards for Medi-Cal Eligibility (set forth in Insurance Code §789.8(d)) shall be distributed and maintained as follows:
 - (1) The life agent must obtain the elder's or elder's agent's signature and date and time of signature on the notice and provide a copy of the notice to the elder or the elder's agent. This shall take place immediately before the time the life agent presents the application for a life insurance or annuity product.
 - (2) The life agent must submit the original signed notice to the insurer along with the application for the life insurance or annuity product. If no application is submitted to an insurer for a life insurance or annuity product, the life agent shall maintain the original of the signed notice.
 - (3) The life agent must maintain the original or a copy of each signed notice among his or her records.
- (b) The record retention requirements for the Notice Regarding the Sale or Liquidation of Assets (set forth in section 2523.22(c), above) and the Notice Regarding Standards for Medi-Cal Eligibility (set forth in Insurance Code §789.8(d)) are as follows:
 - (1) The insurer shall maintain each original notice for at least five (5) years following the actual delivery of the insurance policy or contract to which the notice pertains.
 - (2) The life agent shall maintain a copy of the notice for at least five (5) years following the actual delivery of the insurance policy or contract to which the notice pertains. If the life agent is required to retain the original of a signed notice under section 2523.24(a)(2), the life agent shall maintain the original of that notice for at least five (5) years following the actual delivery of the insurance policy or contract to which the notice pertains.
 - (3) If no policy or contract is issued, then the retention periods set forth in paragraphs (b)(1) and (b)(2) of this section shall commence on the date the elder or elder's agent signed the notice.

NOTE: Authority cited: Section 789.6(h), 12921(a), and 12926, Insurance Code.
Reference: Sections 789.8, 10508, 10508.5, Insurance Code.

Section 2523.25. Penalties

- (a) A violation of any of the provisions of this Article is subject to Insurance Code sections 789 and 789.3, as well as any other applicable law.

NOTE: Authority cited: Section 789.6(h), 12921(a), and 12926, Insurance Code.
Reference: Sections 789, 789.3, Insurance Code.

Article 10.3. Applications for Individual Variable Annuity Contracts, Variable Life Insurance Contracts, and Modified Guaranteed Contracts

Section 2523.30. Authority and Purpose

The Insurance Commissioner promulgates the regulations in Article 10.3 pursuant to the authority granted by California Insurance Code sections 790.10, 12921(a), and 12926. The purpose of these regulations is to implement and make specific the provisions of California Insurance Code sections 790.03(a), 790.03(b), and 10127.10.

NOTE: Authority cited: Sections 790.10, 12921(a), and 12926, Insurance Code.
Reference: Sections 790.03(a), 790.03(b), and 10127.10, Insurance Code.

Section 2523.31. Applications for Individual Variable Annuity Contracts, Variable Life Insurance Contracts, and Modified Guaranteed Contracts that are Required to Set Forth Investment Choices

- (a) This section applies to every application for an individual variable annuity contract, variable life insurance contract, or modified guaranteed contract subject to Insurance Code section 10127.10 when the product being applied for does not automatically deposit the applicant's money in a fixed account or money market fund during the initial 30 days of the contract. Every application for an individual variable annuity contract, variable life insurance contract, or modified guaranteed contract subject to Insurance Code section 10127.10 and this section shall contain the language set forth in section 2523.31(b) whenever the applicant is 60 years of age or older on the date of purchase of the contract. The language set forth in section 2523.31(b) shall be printed as shown in subsection (b) in 12-point bold print, with one inch of space on all sides. The name of the insurer issuing the contract shall be inserted into the blank in the first full paragraph of section 2523.31(b).

- (b) **IMPORTANT NOTICE TO CONSUMERS**
(California Insurance Code section 10127.10)

YOU ARE APPLYING FOR A (CHOOSE ONE):

_____ **VARIABLE ANNUITY CONTRACT,**

_____ VARIABLE LIFE INSURANCE CONTRACT,

OR _____ MODIFIED GUARANTEED CONTRACT.

Under California law, you have 30 days from the date you receive the contract to return it to (insert name of insurer issuing the contract) for a refund.

For your protection, California law requires that your premium automatically be invested in a *fixed account* or *money-market fund account* during the initial 30-day period of the contract. These accounts will protect your premium from loss more than a stock or bond account. If you return the contract within the 30-day period, you will be entitled to a refund of the premium and policy fees.

You may reject these protections and invest your premium in a *stock or bond portfolio* during the initial 30-day period of the contract. These accounts have a greater risk of loss. If you return the contract during the 30-day period, you will be entitled to a refund of the contract's *account value* on the day the contract is received by the insurance company or agent who sold you the contract. The *account value* could be less than the premium you paid for the contract. If you choose to invest your premium in a stock or bond portfolio during the initial 30 days of the contract you must make this choice in writing by signing and dating the attached form.

There may be a substantial *penalty* or *surrender charge* if you return the contract after the initial 30-day period.

**REQUEST FOR ACCOUNT WITH GREATER RISK OF LOSS DURING THE
INITIAL 30 DAYS OF THE CONTRACT**

During the initial 30 days of the contract, I choose to invest my premium in a *stock or bond portfolio* with a greater risk of loss than the *fixed account or money market fund account* provided for by California law.

DATE: _____ SIGNATURE: _____

NOTE: Authority cited: Sections 790.10, 12921(a), and 12926, Insurance Code.
Reference: Sections 790.03(a), 790.03(b), and 10127.10, Insurance Code.

Article 10.4. Seniors' Insurance

Section 2523.40. Authority and Purpose

The Insurance Commissioner promulgates the regulations in Article 10.4 pursuant to the authority granted by California Insurance Code sections 789.6(h), 12921(a), and 12926. The purpose of these regulations is to implement and make specific the provisions of California Insurance Code sections 785 and 787.

NOTE: Authority cited: Sections 789.6(h), 12921(a), and 12926, Insurance Code.

Reference: Sections 785 and 787, Insurance Code.

Section 2523.41. Advertising Seminars or Events Directed towards Persons Age 65 or Older

When an advertisement for an event or seminar directed towards persons age 65 or older is paid for in whole or in part or disseminated by an insurance company, insurance agent, insurance broker, or affiliate, the advertisement shall include the following disclosure in at least 12-point boldface type, prominently displayed: "When you attend this event, your name may be made available to an insurance agent for the purpose of selling insurance." The requirements of this section are in addition to the requirements of Insurance Code section 787(k).

NOTE: Authority cited: Sections 789.6(h), 12921(a), and 12926, Insurance Code.

Reference: Sections 785 and 787, Insurance Code.